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From: rbw@trademarkinfo.com
t: Monday, April 29, 2002 1:42 PM
To: paper-removal@uspto.gov
Subject: Request to speak at the public hearing scheduled for May 16,
Importance: High

Dear Sirs:

This is a request to speak at the public hearing scheduled for May 16, 2002 regarding the "Proposed Plan for an Electronic Public Search Facility". Daphne Hammond will speak on behalf of the Trademark Office Public User Society. Following are the Society's written comments for inclusion in the record. Please contact the sender for any further information or to confirm this request.

Trademark Office Public User Society

2518 Fort Scott Drive

Arlington, VA 22202

April 29, 2002

Under Secretary of Commerce for Intellectual

Property and Director of the United States

Patent and Trademark Office

Washington, DC 20231

Att: Ronald Hack, Deputy Chief Information Officer

For Information Technology Services

Re: Proposed Plan for an Electronic Public Search Facility

Dear Sir:

The United States Patent and Trademark Office (USPTO) is proposing a plan to convert its search library to an all electronic facility. Although comments or questions were solicited in a Federal Register published August 27, 2001, it is disconcerting that we have received no response to any of the questions or issues we raised at that time.

There is no doubt that an excellent automated search system should exist and could replace the paper search system, despite a concern that the "browse factor", a unique and irreplaceable element of the paper system, would be lost in an electronic environment. Searching is frequently a subjective endeavor, where in the process of conducting a search, a stray reference will alert the searcher to a new and rewarding strategy not previously considered. That being said, years of neglect and insufficient quality control have taken a toll on the paper records. The automated search system has been a welcome adjunct to fill in the gaps and errors that have crept into the paper system. The automated search system has its own series of problems which are different from the problems in the paper record. First, there appears to be a significant lack of quality control during the input period resulting in uncounted errors in bibliographic data, improper

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or missing design codes, illegible or missing images, images associated with the wrong mark and other significant missing data elements. Keeping in mind that this is the same system utilized by the Examiners, the economic and business ramifications to the agency's internal and external customers are significant.

The USPTO is mandated to maintain a searchable record of trademarks. It would be intellectually dishonest to interpret that mandate to refer to registrations only, since previously filed applications can be just as significant to an examiner and devastating to an applicant. It would seem to be in the United States' best interest for the USPTO to create and maintain the most accurate and complete record possible. Despite significant expenditure of funds, many of the problems identified by previous Government Accounting Office reports still remain and have not been addressed by the agency. Thus, it seems premature to eliminate the paper search file until such time as significant improvement in the electronic systems data integrity can be verified.

By way of example, the USPTO proposes elimination of the following specific items currently existing in the paper files: color marks, Paris Convention marks, government agency logos, Defense Department weapons names and sensory marks. The USPTO never created an adequate coding system to make sensory or color marks searchable in the initial design of the electronic search system. During subsequent redesigns and upgrades, some new codes were created to accommodate those marks but the thousands of existing registrations and applications were not retrofitted with those codes. Similarly, there has been no cohesive effort to ensure complete capture of Paris Convention, Government Agency or weapons marks in their entirety. Many are missing the image associated with the mark and some may be missing entirely. It makes little sense to eliminate one system in favor of another if such significant discrepancies in the data have not been identified and corrected. The automated system as it stands now is not a reliable substitute for the paper, just as the Internet search system offered by the USPTO (TESS, TARR) is a poor substitute for X-Search and TRAM.

While we applaud the significant efforts the USPTO has made to move into the electronic age, much has to be done to ensure a smooth transition with reliable data for accurate information dissemination. We continue to offer our assistance in any manner that might aid the agency in this endeavor.

Very truly yours,

Daphne Hammond

Chairman